

ORIGINAL

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

FILED  
U.S. DISTRICT COURT  
NORTHERN DIST. OF TX  
FT. WORTH DIVISION

2004 MAR 31 PM 2:44

CLERK OF COURT

DIRECTV, INC.,

Plaintiff,

v.

JAMES GARCIA,

Defendant.

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Civil Action No. 4:03-CV-422-A

**PLAINTIFF DIRECTV, INC.'S PROOF OF SERVICE**

Pursuant to the Court's March 17, 2004, Order, Plaintiff DIRECTV, Inc. attaches hereto as Exhibit "A" its proof of service of summons and complaint on Defendant.

Respectfully Submitted,

By: 

Michael G. Brown  
State Bar No. 03153800  
David F. Freudiger  
State Bar No. 07449300

Figari & Davenport, L.L.P.  
3400 Bank of America Plaza  
901 Main Street, LB 125  
Dallas, Texas 75202-3796  
(214) 939-2000 (telephone)  
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OF COUNSEL:

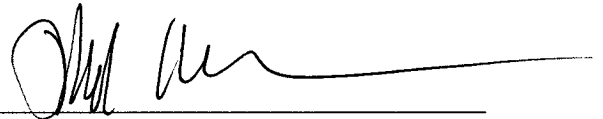
Frederick Black  
State Bar No. 02371100  
Andrew J. Mytelka  
State Bar No. 14767700

Greer, Herz, & Adams, L.L.P.  
One Moody Plaza, 18<sup>th</sup> Floor  
Galveston, Texas 77550  
(409) 797-3200 (telephone)  
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**CERTIFICATE OF SERVICE**

I, Michael G. Brown, one of the attorneys for DIRECTV, Inc., do hereby certify that I have on this 31st day of March, 2004, served a true and correct copy of the above and foregoing instrument by certified mail, return receipt requested to the following party:

Roy A Davis  
Attorney at Law  
310 N. Main, Suite C  
Highway 377  
Keller, Texas 76248

A handwritten signature in black ink, appearing to read 'Michael G. Brown', written over a horizontal line.

Michael G. Brown

United States District Court  
Northern District of Texas

WAIVER OF SERVICE OF SUMMONS

TO: Attorney for Plaintiff, Michael G. Brown, Figari & Davenport, 3400 Bank of America Plaza, 901 Main Street, Dallas, Texas 75202-3796

RE: *DirecTV, Inc. v. James Garcia*, No. 4:03-cv-422-A in the Fort Worth Division of the United States District Court for the Northern District of Texas

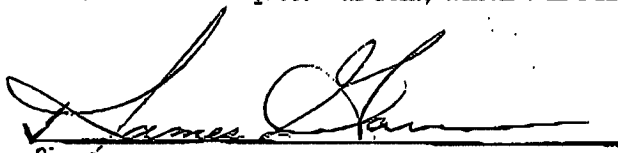
I acknowledge receipt of your request that I waive service of a summons in the action stated above, which was filed in the United States District Court for the Northern District of Texas. I have also received a copy of the complaint in the action, two copies of this Instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I be served with judicial process in the manner provided by Rule 4.

I will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the Court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me if an answer or motion under Rule 12 is not served upon you within 60 days after the date the request was sent, which was March \_\_\_, 2004.

✓ 3/30/04  
Date

  
Signature  
James Garcia  
Printed/Typed Name

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving costs of service of the summons and complaint. A defendant located in the United States who after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the Court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the Court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

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